

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-against- :

DOMINICK P. CAROLLO, :
STEVEN E. GOLDBERG, and :
PETER S. GRIMM, :

Defendants. :

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UNITED STATES OF AMERICA :

-against- :

PETER GHAVAMI, GARY HEINZ, :
and MICHAEL WELTY, :

Defendants. :

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UNITED STATES OF AMERICA :

-against- :

RUBIN/CHAMBERS, DUNHILL :
INSURANCE SERVICES, INC., :
DAVID RUBIN, ZEVI WOLMARK, :
and EVAN ANDREW ZAREFSKY, :

Defendants. :

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VICTOR MARRERO, United States District Judge:

On December 2, 2011, this Court orally ordered that an evidentiary hearing be held on December 20, 2011 to further develop the factual record as to the management of certain confidential informants and any potential related intrusion into any privilege during the government investigation related to the three above-captioned prosecutions (the "Hearing"). By letter

No. 10 Cr. 654 (HB)

No. 10 Cr. 1217 (KMW)

No. 09 Cr. 1058 (VM)

ORDER

dated December 14, 2011, third parties Investment Management Advisory Group, Inc., David Eckhart, and Martin Stallone (the "IMAGE Parties"), on behalf of themselves and the defendants in the three above-captioned matters, request an order directing the Government to produce affidavits from two of the six pertinent confidential informants and to arrange for the in-person testimony of the four other confidential informants at the Hearing.

Also by letter dated December 14, 2011, the Government argues that the testimony of confidential informants is unnecessarily cumulative of testimony to be offered from investigating agents and asserts that the defendants in the three above-captioned matters inappropriately seek to use the Hearing as an opportunity to probe the confidential informants' substantive testimony prior to trial.

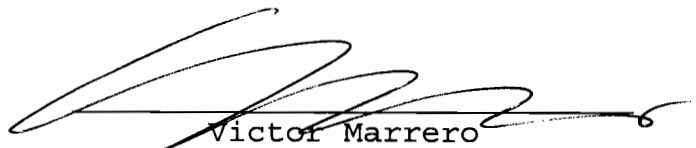
By another letter dated December 14, 2011, the IMAGE Parties, again on behalf of themselves and defendants in the three above-captioned matters, argue that the requested testimony at the Hearing of the four confidential informants is necessary to complete the record because those four confidential informants participated in recorded conversations that the Government identified in its application to disclose Brady material potentially protected by a privilege.

The Court is persuaded that all six of the confidential informants may have personal knowledge relevant to the issues to be examined at the Hearing. However, the Court is not persuaded that affidavits from all six confidential informants would be necessarily insufficient in light of the limited purposes of the Hearing. Further, the Court foresees significant and unnecessary delay should in-person testimony be offered from multiple confidential informants at the Hearing.

Accordingly, it is hereby ORDERED that the Government shall submit, by December 19, 2011, from each of the six confidential informants, affidavits that set forth each confidential informant's personal knowledge as to the limited factual issue of whether Government attorneys, investigating agents or any confidential informant sought to elicit privileged material during consensual recordings collected in the investigation related to the three above-captioned prosecutions.

SO ORDERED.

Dated: New York, New York
December 15, 2011


Victor Marrero
United States District Judge